

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED

JAN 19 2007

CLERK, U.S. DISTRICT COURT

By _____
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

GERALD PROPER,

Petitioner,

v.

NATHANIEL QUARTERMAN, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

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2:07-CV-0002

**ORDER OVERRULING OBJECTIONS,
ADOPTING REPORT AND RECOMMENDATION,
and DENYING PETITION FOR A WRIT OF HABEAS CORPUS**

Petitioner has filed with this Court a petition for a writ of habeas corpus challenging a prison disciplinary case. On January 8, 2007, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that the petition for a writ of habeas corpus be denied as petitioner did not lose good time as a result of the disciplinary case, is not eligible for mandatory supervised release due to his conviction for sexual assault, and is not factually eligible for mandatory supervised release due to his life sentence. On January 17, 2007, petitioner filed objections to the Report and Recommendation arguing his challenge to the prison disciplinary decision was based not on the denial of a liberty interest without due process but, instead, was based on the denial of a property interest without due process, to wit: the forfeiture of \$2,600 from his inmate trust fund account. Petitioner thus argues this Court should review the state prison disciplinary proceeding and reverse the decision forfeiting the funds.


A federal writ of habeas corpus is utilized to challenge the very fact or duration of physical imprisonment, and seeks a determination that the petitioner is entitled to immediate release or a

speedier release from that imprisonment. *See Preiser v. Rodriguez*, 411 U.S. 475, 500, 93 S.Ct. 1827, 36 L.Ed.2d 439 (1973); *Cook v. Tex. Dep't of Criminal Justice Transitional Planning Dep't*, 37 F.3d 166, 168 (5th Cir. 1994). A federal writ of habeas corpus is not an appropriate means by which to seek a return of property.

The undersigned United States District Judge has made an independent examination of the record in this case. Petitioner's objections are without merit and are hereby OVERRULED. The Magistrate Judge's Report and Recommendation is hereby ADOPTED. Accordingly, the petition for a writ of habeas corpus filed by petitioner is hereby DENIED.

IT IS SO ORDERED.

ENTERED this 19th day of January 2007.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE